

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Case No. CR07-118MJP

Plaintiff,

ORDER

PHUOC TAN NGUYEN,

Defendant.

12 This matter comes before the Court on Defendant's motion for return of personal
13 property. (Dkt. No. 56.) Defendant seeks the return of his passport, his Canadian Citizenship
14 Card, his medical insurance card, his Social Identification Number Card, and his Costco Credit
15 Card, along with all other personal items taken from him or his residence by the government or its
16 agents. The Government has no objection to returning any of these items except for Defendant's
17 Canadian passport. (Dkt. No. 58.) The Government contends that because Immigration and
18 Customs Enforcement ("ICE") will be seeking Defendant's deportation upon completion of his
19 sentence, and because the passport belongs to the Canadian government, ICE should retain
20 custody of the passport.

21 The Court will not allow the retention of the property because the Government has
22 offered no legal authority or evidence to support its position. After the completion of criminal
23 proceedings, the person from whom property has been seized is presumed to have a right to its
24 return, and the government has the burden of demonstrating that it has a legitimate reason to
25 retain the property. United States v. Martinson, 809 F.2d 1364, 1369 (9th Cir. 1987). Because
26 the Government has not carried its burden of demonstrating that it has a legitimate reason to
27 retain Mr. Nguyen's passport, Defendant's motion is GRANTED. All items listed in Defendant's

1 motion shall be returned to Defendant or his designee within ten (10) calendar days of this order.

2 Filed this 7th day of January, 2008.

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Marsha J. Pechman
United States District Judge